

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
AT DAYTON

----- )  
UNITED STATES OF AMERICA, )  
 )  
Plaintiff, ) CASE NO. 3:16-CR-026-TMR  
 )  
-vs- )  
 )  
ROBERT STEVEN JONES, ) MOTION TO SUPPRESS  
 )  
Defendant. )  
----- )

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE **THOMAS M. ROSE**,  
UNITED STATES DISTRICT JUDGE, PRESIDING  
MONDAY, APRIL 17, 2017  
DAYTON, OH

**APPEARANCES:**

**For the Plaintiff:** **VIPAL J. PATEL, ESQ.**  
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Proceedings recorded by mechanical stenography,  
transcript produced by computer.

**Mary A. Schweinhagen, RDR, CRR**  
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1 P-R-O-C-E-E-D-I-N-G-S 2:18 P.M.

2 THE COURT: We are here before the Court this  
3 afternoon in the matter of the United States of America versus  
4 Robert S. Jones. And this matter was scheduled this afternoon  
5 for the purposes of conducting a hearing on the remaining  
6 portion -- remaining portions of a motion to suppress that was  
7 filed by the defendant, the Court having ruled on a portion of  
8 the motion to suppress but leaving, I guess it was -- what  
9 branch was that, Mr. Rion?

10 MR. RION: 5.

11 THE COURT: -- 5 unrulled upon, basically the issues  
12 regarding statements allegedly made by Mr. Jones at his  
13 residence alleging possible violations of Miranda and/or  
14 involuntariness of that, of those statements. So the Court  
15 set the matter.

16 There is also some indication with regard -- in the  
17 motion to suppress that there could be, based upon further  
18 discovery and/or expert analysis, there could be a possibility  
19 of further -- of a further motion being filed in the case.  
20 However, this matter was set today for the purposes of the  
21 limited hearing on the statements at the residence.

22 So -- well, first, would counsel enter their appearance  
23 for the record.

24 MR. PATEL: Good afternoon, Your Honor. Vipal Patel  
25 and Andrew Hunt for the United States. And with us is the

1 case agent, FBI Special Agent Andrea Kinzig.

2 THE COURT: Thank you.

3 MR. RION: Jon Paul Rion for Mr. Jones.

4 THE COURT: Mr. Rion, how would we wish to proceed  
5 this afternoon?

6 MR. RION: Your Honor, the Court had allowed a  
7 mirror image of the hard drive to be sent to our expert in  
8 Phoenix, Arizona. That has been accomplished. Our expert is  
9 in the process of reviewing that as we speak. I think that  
10 she received it last week or the week before. So the defense  
11 needs more time to analyze that evidence that was just  
12 recently shipped out there.

13 At this time, the defendant would be withdrawing Branch 5  
14 of the motion to suppress that dealt with statements. It's  
15 the defense understanding that at the time the arrest warrant  
16 was served, a recorded statement was received by Mr. Jones.  
17 There was then a brief statement made by Mr. Jones that dealt  
18 with a password to a cell phone, and then at the time of his  
19 arrest in November, there was a statement that was recorded as  
20 well.

21 The government, it's my understanding, is not aware of  
22 any other statements, nor do they intend to use any other  
23 statements made by the defendant to law enforcement except for  
24 those three statements. With that representation by the  
25 government, then our motion would be withdrawn as related to

1 statements of Branch 5.

2 Mr. Jones has been made aware that because the expert is  
3 reviewing the hard drive of the computer and the computer  
4 contains a lot of information, that the time is necessary for  
5 counsel to do a competent job. So we would be requesting that  
6 we would have until June 1st to file any motions based upon  
7 the results of either the expert or new developments in case  
8 law. Knowing that the hearing wouldn't be set until June 27th  
9 and given the complexity of this matter, counsel could not be  
10 prepared to go to trial until mid September. Mr. Jones has  
11 been made aware of those dates, and we are in agreement if the  
12 Court were to set dates around those times.

13 THE COURT: So, Mr. Rion, basically you are asking  
14 the Court not only to give you some additional time, or give  
15 Mr. Jones some additional time to analyze this further  
16 discovery or this expert information that is being compiled at  
17 this point in time and possibly filing motions based upon  
18 that, as well as continuing the trial date based upon the fact  
19 that if the matter does not resolve and based upon the fact  
20 that you are spending through June on possible discovery and  
21 motions, it's going to take you an additional time then to  
22 prepare for a jury trial if that's -- if that needs to happen;  
23 is that correct?

24 MR. RION: It is, Your Honor.

25 THE COURT: And you have indicated here upon the

1 record that Mr. Jones understands that this oral motion to  
2 continue the matter for the purposes of further filing, if  
3 necessary, of motions, conduct motion hearings, and, of  
4 course, the further preparation for trial, if necessary, would  
5 toll any and all speedy trial calculations, the Court would  
6 say from today on. It's been tolled because we've had these  
7 motions pending, but since the request now is to allow further  
8 time for motions filing and any possible hearing that's  
9 necessary and then preparation of trial, that his motion to  
10 continue would be a motion to continue or to set a trial date  
11 and tolling any and all time from today until the new trial  
12 date?

13 MR. RION: That's correct, Your Honor.

14 THE COURT: You believe that Mr. Jones understands  
15 that fully?

16 MR. RION: He does, Your Honor.

17 THE COURT: Mr. Jones, how about that? Do you?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Obviously, every defendant has a right  
20 to be tried within a certain period of time. The one thing  
21 that can stop the running of that clock -- and this clock has  
22 been stopped for a while because we've had these motions to  
23 suppress pending -- but the other thing that can, in addition  
24 to a motion to suppress, the other thing that can stop the  
25 clock is motions to continue. And the Court is taking

1 Mr. Rion's oral motion here upon the record as a motion to  
2 continue for the purposes of filing the motion and setting  
3 trial because he is indicating to the Court that it is  
4 necessary for him to further conduct discovery, analyze that  
5 discovery, possibly evaluate expert information, and to  
6 possibly file a motion.

7 At that point in time, of course, the Court would have to  
8 set a schedule with regard to motions. And regardless of how  
9 those motions turn out, if the Court needs to set a trial  
10 date, everyone's going to have to prepare for trial. So he's  
11 laid out a justification for this motion that all these things  
12 need to be done, and to not do them or not do them  
13 sufficiently would obviously be a miscarriage of justice.

14 So, however, as part of that, you understand that the  
15 time, the speedy trial clock for you, is not running from  
16 today until the new trial date which I believe we tentatively  
17 are looking for somewhere in mid September. I think  
18 specifically September the 18th. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Understanding all of those things, do  
21 you still wish the Court to grant the continuance?

22 THE DEFENDANT: Yes.

23 THE COURT: Any objection from the government,  
24 Mr. Patel?

25 MR. PATEL: No, Your Honor.

1           THE COURT: Do you want to add or clarify anything  
2 that we've said here?

3           MR. PATEL: No. No, Your Honor.

4           THE COURT: Well, the Court would grant the  
5 withdrawal of the -- of Branch 5 of the motion. The Court is  
6 going to set the following schedule, and this schedule is set  
7 based upon the fact that the Court has, upon the presentation  
8 of counsel and the motions that have been filed, determine  
9 that this case is indeed a case in which there is detailed,  
10 extensive, and complex discovery and information. There's  
11 also an ongoing expert evaluation that needs to be completed,  
12 and then possibly additional time to review those conclusions  
13 and further documentation. So obviously we're talking about a  
14 very complex matter of many issues, both factually and legal.

15           The Court does find, therefore, that we do need an  
16 opportunity for counsel for the defendant to consider this  
17 discovery and to determine based upon that the advisability or  
18 the desirability of filing further motions; if filed, a motion  
19 hearing schedule. And the Court understands that regardless  
20 of how those motions may turn out, there may be the necessity  
21 for preparing this complex, extensive, and somewhat detailed  
22 case for trial. So, therefore, the Court does find that the  
23 failure to grant this trial schedule, this extended trial  
24 schedule would likely result in a miscarriage of justice and  
25 would deny Mr. Jones and his counsel reasonable time necessary

1 for effective preparation.

2 So, therefore, the Court does find, within the factual  
3 and legal confines of this case, that the ends of justice in  
4 granting this extended trial calendar, motion and trial  
5 calendar, outweigh the interests of the public and the  
6 defendant in a speedy trial.

7 So the following trial calendar will be set: We're going  
8 to have a motion filing deadline for June the 6th. It's my  
9 understanding that it is felt that by that point in time the  
10 expert information analysis and any necessary discovery with  
11 regard to that would have been completed. So June the 1st for  
12 any motions.

13 If motions are indeed filed, we are setting this matter  
14 for a motion hearing date on June the 27th, 2017, at 9:30. I  
15 think we have the day, depending on the number of motions or  
16 motion filed for a hearing of that.

17 The Court would also indicate that if motions would  
18 happen to not be filed at that point in time, the Court will  
19 conduct that hearing anyway, just as a status hearing with  
20 regard to the case, and see where we are at.

21 So motion filing deadline June the 1st, 2017. Motion  
22 hearing/status conference date June the 27th, 2017, at 9:30.

23 The Court is going to, based upon the necessity of  
24 preparation of this complex case, the Court is going to set  
25 the jury trial for September the 18, 2017, at 9 o'clock. I



1 think we've reserved up to two weeks for that trial if  
2 necessary.

3 The Court is going to toll any and all speedy trial  
4 calculations from today, April the 17th, through September the  
5 18th, 2017.

6 Is there anything further I need to take care of,  
7 Mr. Rion?

8 MR. RION: No, Your Honor. Thank you.

9 THE COURT: Mr. Patel?

10 MR. PATEL: All those dates sound acceptable to the  
11 government, Your Honor.

12 I just want to advise the Court, not knowing what this  
13 motion might be or look like or feel like, you know, it's hard  
14 to predict what kind of response the government would have.  
15 And I just want to alert Your Honor that it could potentially  
16 be something where we feel we need to brief, we need to maybe  
17 retain our own expert or have our own expert provide an  
18 affidavit or prepare evidence before a hearing. So it might  
19 possibly be that the government is asking for additional time  
20 beyond that June 27th date. I just want to make sure that the  
21 Court is aware of that, that it could be in the realm of  
22 possibility where we are asking for some other date other than  
23 June 27th.

24 THE COURT: Many unknowns.

25 MR. PATEL: Correct, Your Honor. Other than that --

1 THE COURT: Welcome to my world, Mr. Patel.

2 MR. PATEL: Other than that, Your Honor, nothing.

3 No objections.

4 THE COURT: Well, all we can do at this point in  
5 time is try to keep the matter moving. I understand that  
6 there could be some unknowns here to cause us to deviate, but  
7 I believe that the most important part of this, based upon  
8 Mr. Rion's representation of Mr. Jones's motion to continue,  
9 I'm hoping, I'm hoping that at least this trial schedule --  
10 the trial date we can maybe work the other dates around -- but  
11 at least the trial date will represent a goal. And hopefully  
12 we can, if changes are necessary, we can do those changes  
13 within that trial schedule. And we'll try to do everything we  
14 can to maintain that trial schedule.

15 MR. PATEL: Understood. And we share the same  
16 objective as Your Honor.

17 THE COURT: Okay. Anything further to come before  
18 the Court then?

19 MR. PATEL: No, Your Honor.

20 MR. RION: No. Thank you, Judge.

21 THE COURT: All right. Thank you very much.

22 THE CLERK: All rise. The court stands in recess.

23 (Proceedings concluded at 2:33 p.m.)  
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25

## 1 CERTIFICATE OF REPORTER

2  
3 I, Mary A. Schweinhagen, Federal Official Realtime  
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13 s/Mary A. Schweinhagen

14 \_\_\_\_\_ November 5, 2018

15 MARY A. SCHWEINHAGEN, RDR, CRR  
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